



**DEPARTMENT OF THE NAVY**  
NAVAL FACILITIES ENGINEERING COMMAND  
BASE REALIGNMENT AND CLOSURE  
PROGRAM MANAGEMENT OFFICE WEST  
33000 NIXIE WAY, BLDG 50 Suite 207  
SAN DIEGO, CA 92147

5000-110  
Ser BPMOW.cds/162  
June 8, 2020

Ms. Leah Rabkin  
Kelley Drye & Warren  
3050 K Street, NW Suite 400  
Washington, DC 20007

Dear Ms. Rabkin:

This letter responds to your Freedom of Information Act (FOIA) request of September 18, 2019 in which you requested the following:

1. All data, information, and materials (including, but not limited to reports, data, assessments, memoranda, and/or documents) relied on, used to prepare, and/or otherwise pertaining to NAVFAC's July 24, 2018, presentation to the Alameda City Council entitled "Role of Tetra Tech EC (Tt EC) in the Environmental Clean-Up of Alameda Point by the United States Navy."
2. All attendee lists and/or records of individuals (including, but not limited to, Navy officials, federal, state, and local government officials, regulatory officials, and any other person) present at the July 24, 2018 meeting referenced in Request No. 1.
3. All internal Navy communications pertaining to the data, information and materials identified in Requests No. 1-2.
4. All external communications between the Navy and any third party or government agency (including, but not limited to the City and County of San Francisco, the California Department of Public Health, the California Environmental Protection Agency, the California Department of Toxic Substances Control, the United States Navy, the United States Environmental Protection Agency, the office of any local, state or federal elected official or representative, and any division or department of any of the foregoing) pertaining to the data and information identified in Request No. 1-2.

Your request was received by this office on September 19, 2019 and assigned file number DON-Navy-2019-011411. The scope of your FOIA request was modified by you via email on October 22, 2019, "to include only primary documents relied upon or used to prepare NAVFAC's July 24, 2018 presentation to the Alameda City Council entitled 'Role of Tetra Tech EC (Tt EC) in Environmental Clean-Up of Alameda Point by the United States Navy,' all attendee lists or records of individual present at the meeting, and internal / external Navy communications about that presentation. You further agreed via email on December 6, 2019, that any documents responsive to your FOIA request that either prepared by or previously provided to Tetra Tech did not need to be processed and released to you, but instead would be identified as responsive by title. We provided an initial release of responsive records to you by letter dated November 7, 2019. This second release constitutes the final release under this FOIA.

During our search, we examined the files maintained by our office and NAVFAC Administrative Record as responsive to your request.

The following six (6) records were authored by Tetra Tech and determined to be responsive to your request:

- Final Remedial Action Work Plan, Revision 1, Installation Restoration Site 2, November 2013
- Final Removal Action Completion Report, Installation Restoration Site 2, January 2017
- Final Remedial Action Work Plan, Installation Restoration Site 17, Seaplane Lagoon, January 2011
- Final Remedial Action Completion Report Installation Restoration Site 17, September 2014
- Final Remedial Design and Remedial Action Work Plan Installation Restoration Site 24, October 2011
- Final Remedial Design/Remedial Action Work Plan, Operable Unit 5 Groundwater, Revision 2, December 2010

Our initial search identified approximately 200 documents that were potentially responsive to your FOIA request. After completing our review of all potentially responsive documents, we determined 80 were non-responsive and 24 were duplicates, yielding 96 unique responsive documents. Eight (8) records were released to you in November 2019 and an additional 6 responsive records identified by title above. With this letter, the Navy is providing an additional 43 responsive records to you via FOIA Online. Five of the responsive records provided are partially exempt from disclosure under Exemption 6 [5 U.S.C. §552(b)(6)], which exempts from disclosure personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. These records are partially redacted and the applicable FOIA exemptions are noted on the cover sheets with each record containing redactions.

However, 39 of the responsive records contain certain draft documents and briefing materials that contain or reflect internal advice, recommendations and subjective evaluations pertaining to the internal decision-making process of the Navy are exempt from disclosure under Exemption 5 of FOIA [5 U.S.C. §552(b)(5)] and have been withheld from release. Release of these records could cause harm to the Navy's deliberations by discouraging the free and frank exchange of opinions or potentially result in public confusion by disclosing information that is not consistent with the outcome of the deliberative process. Although portions of the exempt documents could be considered factual, such information is inextricably intertwined with deliberative material, or fragmented and uninformative, and has therefore been withheld from release. Of the 39 withheld records, 23 are draft version copies of the Alameda City Council presentation of which the final presentation is publically available.

In addition, you agreed to pay estimated fees of up to \$4,300. At this time, we have incurred search and review fees in the amount of \$2,304. An invoice detailing search and review fees is enclosed and is payable at this time.

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In view of the above, you may consider this to be an adverse determination that may be appealed. An appeal must be received within 90 calendar days from the date of this letter. There are two ways to file an appeal—through FOIA online or by mail. Since you have created an account in FOIA online, you may submit an appeal directly within the web-based system. To do this, you would log in to your account, retrieve your original request, and then click on the "Create Appeal" tab in the left-hand column. The basic information from your request will be duplicated for you, and then you can type in the basis of your appeal. If you prefer to use regular mail, you may submit an appeal to:

The Department of the Navy  
Office of the General Counsel (ATTN: FOIA APPEALS)  
1000 Navy Pentagon, Room 5A532  
Washington, DC 20350-1000

Please provide a letter requesting an appeal, with a copy of your initial request and a copy of the letter of denial, in an envelope marked "Freedom of Information Act Appeal." You are encouraged (though not required) to provide an explanation why you believe the redactions were inappropriate or our search was inadequate. Also, please provide a copy of your appeal letter to us at:

Meredith Richards  
NAVFAC BRAC PMO West  
33000 Nixie Way, Bldg. 50 Suite 207  
San Diego, CA 92147  
[meredith.richards@navy.mil](mailto:meredith.richards@navy.mil)

For any further assistance regarding any aspect of your request, you have the right to contact the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at [christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil), (703)697-0031. In addition, the Office of Government Information Services (OGIS) provides a voluntary mediation process for resolving disputes between persons making FOIA requests and the Department of the Navy (DON). For more information, go to <https://www.archives.gov/ogis/about-ogis/contact-information>.

Any questions concerning this matter should be directed to Ms. Meredith Richards who may be contacted at [meredith.richards@navy.mil](mailto:meredith.richards@navy.mil) or 619-524-1637.

Sincerely,

KIMBERLY A. OSTROWSKI  
Director